

### Remarks

Applicant respectfully requests reconsideration of the rejection of the claims in view of the remarks set forth below. Claims 1, 3-14 and 16-20 remain in the application. Claims 1, 8 and 14 are amended. Claim 2 and 15 are canceled. Claims 3-7 and 16-20 were previously presented. Claims 9-13 are unchanged.

### 35 U.S.C. §102

Claims 1, 3-12, 14 and 16-20 stand rejected under 35 U.S.C 102(b) as being anticipated by Stoel et al (U.S. 5,905,942). Under 35 U.S.C 102(b), for a reference to anticipate a claimed invention, each and every element of the claim must be found in the reference.

Amended claim 1 recites, inter alia, a “system for providing data in a multiple dwelling facility, the system comprising...a headend unit that receives a data stream that comprises a plurality of programs... and a multiple dwelling unit network that is adapted to receive at least a portion of the data stream from the headend unit and provide at least a subset of the plurality of programs to individual users in the multiple dwelling facility...*wherein the headend unit is adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility either at a first price set by the program provider or at a second price set by the headend unit.*” (Emphasis added). Applicants respectfully submit that no new subject matter is being added by the amendment to claim 1. Support for the amendment can be found throughout the application and more specifically in canceled claims 2 and 15 and in the specification on page 6, lines 21-27 and on page 7, lines 32-37.

As noted on page 8 of the Office Action: “Stoel fails to explicitly disclose that the headend unit is adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility at either a first price or a second price.” Applicants respectfully propose that Stoel also fails to disclose the “wherein the headend unit is adapted to offer at

least one of the plurality of programs to individual users in the multiple dwelling facility either at a first price set by the program provider or at a second price set by the headend unit” element of amended claim 1. As a result, it is respectfully proposed that the rejection for anticipation is overcome.

Dependent claims 3-7 being dependent on and further limiting independent claim 1, should be allowable for that reason, as well as for the additional recitations that they contain. Applicants respectfully requests reconsideration of the rejection of the claims in view of the above remarks.

Independent claim 8 is amended to contain elements similar to independent claim 1 and should be allowable for at least the same reasons discussed above. Therefore, it is respectfully proposed that the rejection for anticipation is overcome.

Dependent claims 9-12 being dependent on and further limiting independent claim 8, should be allowable for that reason, as well as for the additional recitations that they contain. Applicants respectfully requests reconsideration of the rejection of the claims in view of the above remarks.

Independent claim 14 is amended to contain elements similar to independent claim 1 and should be allowable for at least the same reasons discussed above. Therefore, it is respectfully proposed that the rejection for anticipation is overcome.

Dependent claims 16-20 being dependent on and further limiting independent claim 14, should be allowable for that reason, as well as for the additional recitations that they contain. Applicants respectfully requests reconsideration of the rejection of the claims in view of the above remarks.

**35 U.S.C. §103**

Claims 2, 13 and 15 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Stoel in view of Okura et al. (U.S. 6,487,722). Under U.S.C. § 103, the prior art reference (or references when combined) must teach or suggest all of the claim limitations (MPEP § 706.02(j)).

Applicants note that independent claim 1 is amended to recite, inter alia, “wherein the headend unit is adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility either at a first price set by the program provider or at a second price set by the headend unit.” As discussed above, support for these amendments are found, in part, in canceled claim 1 and 15.

Also as discussed above, page 8 of the Office Action indicates that “Stoel fails to explicitly disclose that the headend unit is adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility at either a first price or a second price.” Applicants respectfully propose that Stoel also fails to disclose the “wherein the headend unit is adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility either at a first price set by the program provider or at a second price set by the headend unit” element of amended claim 1.

Okura appears to teach a transmitting apparatus having a program generation section that generates the audio and video data of a program to be broadcast and an EPG data supply section that generates EPG data to be broadcast. (Col. 7, lines 10-47). The EPG data may include feature recognition information to be associated with particular programs displayed in the EPG. (Col. 7, lines 35-38). When such feature recognition information is to be included in a displayed EPG, various program flags (e.g., a discount flag, a last flag, etc.) are added to the EPG data. (Col. 9, lines 3-16). The audio and video program data and the EPG data are multiplexed and supplied into a transport stream that is sent to a satellite for broadcast to receivers. (Col. 7, lines 43-47). One type of feature recognition information and program flag

taught by Okura appears to be for a discount symbol that is shown in specific instances of a program listed in a displayed EPG. (Col. 10, lines 12-39). For example, one version of a program may be listed in an EPG as being viewable on a given channel at a given time and another version of the program may be listed in the EPG on a different channel at a different time and at a discount. (Fig. 6). However, the decision to offer a version of the program at a discount and thereby set the discount flag always appears to only be set by the program provider prior to the satellite transmission of the program and EPG. In contrast to Okura, amended claim 1 recites, inter alia, “wherein the headend unit is adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility either *at a first price set by the program provider or at a second price set by the headend unit.*” (Emphasis added). Thus Okura, like Stoel, does not appear to each all of the limitations of amended claim 1.

As a result, Applicants respectfully submit that Stoel and Okura, taken individually or combined, fail to teach each and every element recited in amended claim 1. More particularly, neither of the references disclose the feature of “wherein the headend unit is adapted to offer at least one of the plurality of programs to individual users in the multiple dwelling facility either at a first price set by the program provider or at a second price set by the headend unit.” As a result, it is respectfully proposed that amended claim 1 is patentable over Stoel in view of Okura and notice to that effect is earnestly solicited.

Applicants note that independent claim 8 and 14 are amended to include similar recitations to those of amended independent claim 1. As a result, it is respectfully proposed that amended claims 8 and 14 are patentable over Stoel in view of Okura and notice to that effect is earnestly solicited.

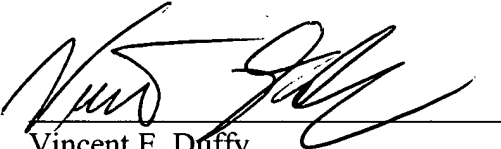
Dependent claim 13 being dependent on and further limiting independent claim 8, should be allowable for that reason, as well as for the additional recitations that contained

therein. Applicants respectfully requests reconsideration of the rejection of the claim in view of the above remarks.

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicants' attorney at (818) 260-3727, so that a mutually convenient date and time for a telephonic interview may be scheduled.

No fees, other than those discussed above, are believed due. However, if a fee is due, please charge the additional fee to Deposit Account 07-0832.

Respectfully submitted,

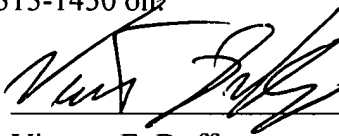
  
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CERTIFICATE OF MAILING

I hereby certify that this amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

11/6/08  
Date

  
Vincent E. Duffy

Report to Data Base  
Docket No P020489 Serial No. 101537,749 Filed: 6/6/05  
Inventor(s): Terry Wayne Lockridge et al. PATENT OPERATIONS  
Title: A Method and System For Premium Channel and Pay Per View

[illegible]